

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
MINUTES OF A PUBLIC HEARING**

DATE..... January 21, 2003
 TIME..... 7:00 P.M.
 PLACE..... County Office Building
 20 N. 3RD Street
 Lafayette, IN 47901

MEMBERS PRESENT

Mark Hermodson
 KD Benson
 John Knochel
 David Williams
 Jeff Kessler
 Gary Schroeder
 Steve Schreckengast
 Kevin Klinker
 Dr. Carl Griffin (7:20 P.M.)
 Mike Smith
 Vicky Pearl
 Bob Bowman

MEMBERS ABSENT

Kathy Vernon
 Lynda Phebus
 Steve Ealy

STAFF PRESENT

Sallie Fahey
 Margy Deverall
 John Burns
 James Hodson, Atty
 Michelle D'Andrea

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 21st day of January 2004, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

James Hodson, Attorney, called the meeting to order.

I. ELECTION OF OFFICERS

James Hodson asked for nominations for President

Jeff Kessler moved to nominate Mark Hermodson for President. KD Benson seconded and the motion carried by voice vote.

Jeff Kessler moved that nominations for President be closed. KD Benson seconded.

Jeff Kessler moved to cast a unanimous ballot for Mark Hermodson for President. Steve Schreckengast seconded and the motion carried by voice vote.

Mark Hermodson takes office and is seated as President.

Mark Hermodson requested nominations for the office of Vice President.

Jeff Kessler moved that KD Benson be nominated for Vice President. Steve Schreckengast seconded the motion.

Jeff Kessler moved that nominations for Vice President be closed. Steve Schreckengast seconded the motion.

Jeff Kessler moved to cast a unanimous ballot for KD Benson for Vice President. Steve Schreckengast seconded and the motion carried by voice vote.

Jeff Kessler moved that KD Benson and Gary Schroeder be nominated to represent Tippecanoe County on the Executive Committee. Mike Smith seconded the motion.

Jeff Kessler moved that David Williams and Steve Schreckengast be nominated to represent the City of Lafayette on the Executive Committee. Mike Smith seconded the motion.

Jeff Kessler moved that Mark Hermodson and Dr. Carl Griffin be nominated to represent the City of West Lafayette on the Executive Committee. Mike Smith seconded the motion.

Jeff Kessler moved that Robert Bowman be nominated to represent the Towns of Dayton, Battle Ground and Clarks Hill on the Executive Committee. Mike Smith seconded the motion.

Jeff Kessler moved that nominations for Executive Committee be closed. Mike Smith seconded the motion.

Jeff Kessler moved to cast a unanimous ballot for KD Benson, Gary Schroeder, David Williams, Steve Schreckengast, Mark Hermodson, Dr. Carl Griffin and Robert Bowman, for Executive Committee. Mike Smith seconded and the motion carried by voice vote.

Jeff Kessler moved that Mark Hermodson be nominated to represent the City of West Lafayette and Gary Schroeder be nominated to represent Tippecanoe County on the Area Board of Zoning Appeals. Steve Schreckengast seconded the motion.

Jeff Kessler moved that nominations for the Area Board of Zoning Appeals be closed. Steve Schreckengast seconded the motion.

Jeff Kessler moved to cast a unanimous ballot for Mark Hermodson and Gary Schroeder for the Area Board of Zoning Appeals. Steve Schreckengast seconded and the motion carried by voice vote.

Mark Hermodson asked Joseph T. Bumbleburg to step forward and congratulated him on winning the Sagamore of the Wabash Award. He mentioned that the list of community services for Joseph T. Bumbleburg was stunning and the award was well deserved.

Sallie Fahey stated that there are 6 retiring members of the Commission this year and 2 were present. She asked Jack Rhoda and Stuart Boehning to step forward. She presented Stuart Boehning with a certificate of commendation for his service. Mark Hermodson presented Jack Rhoda with a certificate of commendation for his leadership and service.

II. BRIEFING SESSION

Sallie Fahey informed the Commission that **Resolution PD 04-03 – Brittany Chase Planned Development** has been added to the agenda; **S-3442—CRM MINOR SUBDIVISION (MINOR-SKETCH)** needed to be continued to the February 18, 2004 Area Plan Commission meeting due to a pending ordinance amendment that would eliminate the required 75' lot width in the NBU zone and **Z-2159—AREA PLAN COMMISSION OF TIPPECANOE COUNTY (I3 AND GB TO GB AND I3)** needed to be continued to the February 18, 2004 Area Plan Commission meeting due to lack of sign posting.

III. APPROVAL OF THE JANUARY APC PUBLIC HEARING AGENDA NEW BUSINESS

Final Detail Plans

Jeff Kessler moved that the following Resolutions be placed on the January 21, 2004 regular APC agenda:

Resolution PD 04-01: Appleridge at the Orchard Planned Development Phase 2

Resolution PD 04-02: Valley Ridge Planned Development

Resolution PD 04-03: Brittany Chase Planned Development

Steve Schreckengast seconded and the motion carried by voice vote.

Ordinance Amendments

Jeff Kessler moved that the following ordinance amendment be placed on the January 21, 2004 regular APC agenda:

UZO AMENDMENT #41

Steve Schreckengast seconded and the motion carried by voice vote.

REZONING ACTIVITIES

Jeff Kessler moved that the following rezone petitions be placed on the January 21, 2004 Area Plan Commission Public Hearing Agenda:

Z-2155 – O'MALLEY-WHITE DEVELOPMENT, INC. (R3 TO GB)

Z-2156 - BEACHWOOD, LLC BY JOHN B. SCHEUMANN (Crosser Commons) (R1 and I3 to PDRS)

Z-2157 – MICHAEL AND PATRICIA MOLTER (A TO RE)

Z-2158 – JOHN E. SMITH ENTERPRISES, INC. (R1B TO NB)

z-2159 – AREA PLAN COMMISSION OF TIPPECANOE COUNTY (I3 AND GB AND GB AND I3)

Steve Schreckengast seconded and the motion carried by voice vote.

SUBDIVISIONS

Jeff Kessler moved that the following subdivision petitions be placed on the January 21, 2004 Area Plan Commission Public Hearing Agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

S-3423 – AVALON BLUFFS SUBDIVISION (MAJOR-PRELIMINARY)

S-3436 – CRM MINOR SUBDIVISION (MINOR-SKETCH)

Steve Schreckengast seconded and the motion carried by voice vote.

Jeff Kessler moved to continue **S-3442—CRM MINOR SUBDIVISION (MINOR SKETCH)** and **Z-2159—AREA PLAN COMMISSION OF TIPPECANOE COUNTY (I3 AND GB TO GB AND I3)** to the February 18, 2004 Area Plan Commission meeting. Steve Schreckengast seconded and the motion carried by voice vote.

IV. APPROVAL OF MINUTES

Jeff Kessler moved to approve the minutes of the December 17, 2003 minutes. Steve Schreckengast seconded and the motion carried by voice vote.

V. NEW BUSINESS

A. Final Detail Plans

1. **RESOLUTION PD 04-01 APPLERIDGE AT THE ORCHARD PLANNED DEVELOPMENT, PHASE 2:** Final detailed plans (final plat only) for 26 semi-attached, single-family zero-lot-line lots on 10-902 acres on the north side of SR 26 W, east of CR 2300 W, in Wabash 14(NW)23-5

Jeff Kessler moved to approve **RESOLUTION PD 04-01**. Steve Schreckengast seconded the motion.

Sallie Fahey presented 2 slides. She recapped the staff report with recommendation of approval.

The Commission voted by ballot 11 yes – 0 no to approve of **RESOLUTION PD 04-01**.

Dr. Carl Griffin joined the meeting 7:20 p.m.

2. **RESOLUTION PD 04-02 -- VALLEY RIDGE PLANNED DEVELOPMENT:** Final detailed plans for a 10-lot single-family development on 17.03 acres, located on the south side of Eisenhower Road, opposite Buckridge Subdivision, in Fairfield 13(SE)23-4.

Jeff Kessler moved to approve **RESOLUTION PD 04-02**. Steve Schreckengast seconded the motion.

Sallie Fahey presented 2 slides. She recapped the staff report with recommendation of approval.

KD Benson asked if there have been similar islands of land above the floodplain in the past.

Sallie Fahey stated that there are similar islands around, but never before in a PD before.

The Commission voted by ballot 12 yes – 0 no to approve of **RESOLUTION PD 04-02.**

3. **RESOLUTION PD 04-03 – BRITTANY CHSE PLANNED DEVELOPMENT:**
Final detailed plans (construction plans only) for a 283-lot single-family development on 63.21 acres. The site isolated north of CR 350 and west of Concord Road, in the City of Lafayette, Wea 10(NW)22-4

Jeff Kessler moved to approve **RESOLUTION PD 04-03.** Steve Schreckengast seconded the motion.

Sallie Fahey recapped the staff report and explained that there were not any slides because this was a last minute addition to the agenda. She recapped the staff report with recommendation of approval.

The Commission voted by ballot 12 yes – 0 no to approve of **RESOLUTION PD 04-03.**

VI. PUBLIC HEARING

Jeff Kessler moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. Steve Schreckengast seconded and the motion carried by voice vote.

Mark Hermodson read the meeting procedures.

A. ORDINANCE AMENDMENTS

1. **UZO AMENDMENT #41:** An omnibus amendment including changes to the NBU lot width standard, Flood Plain setbacks and compaction tests, PD pre-submission meeting attendees list, and correcting a typographical error.

Jeff Kessler moved to approve the above-described request. Steve Schreckengast seconded the motion.

Margy Deverall read the staff report with recommendation of approval.

Mark Hermodson explained the process and reasons behind amending the ordinance.

Steve Schreckengast asked whether the term “professional engineer” included structural and civil engineers.

Sallie Fahey stated that the P.E. designation at the end of engineers’ titles would qualify them to perform floodplain fill compaction test. She explained that any structural or civil engineers who were P.E. would qualify.

Steve Schreckengast asked whether a civil engineer was automatically a P.E.

Sallie Fahey replied that she did not think so, she thought that there was additional testing involved.

Dave Ayala, TBird Design, 4720 South 100 West, Lafayette, IN, stated that he was not a professional engineer, but was aware of the rules. He explained that to become a registered P.E., it would not matter what field your major concentration was in. He said that it was up to the individual engineer to certify tests because it was their own accountability. He stated that land surveyors would not qualify to perform these tests. He mentioned that taking this out of the ordinance was appropriate.

Bob Bowman asked what length the term “certain length” referred to in the first paragraph.

Mark Hermodson explained that right now the UZO had a maximum width of 75’ and that did not make sense in the NBU zone.

John Knochel questioned the addition of a 25' setback at this time. He suggested that this amendment should wait until the flood buyout program was completed. He explained that the 25' setback might back some of the flood victims into a corner and that would not be fair.

Sallie Fahey stated that the reason for this amendment was because this section of the UZO was unclear. She said that if a home were partly in the flood plain and partly in another zone the UZO was not clear as to whether they could build on or improve the section that was not in the flood plain. She explained that historically if part of the building was in the flood plain, the building was a non-conforming use and could not be expanded. She said that staff would not have any objection to postponing this portion of the amendment for further discussion in the Ordinance Committee.

Steve Schreckengast moved to remove paragraph 4 from UZO Amendment #41 and send it back to the Ordinance Committee for further discussion. John Knochel seconded and the motion carried by voice vote.

The Commission voted by ballot 12 yes –0 no to recommend approval of **UZO AMENDMENT #41, as amended.**

B. REZONING ACTIVITIES

1. **Z-2155—O'MALLEY-WHITE DEVELOPMENT, INC. (R3 TO GB):**

Petitioner is requesting rezoning of two tracts totaling 15.74 acres located on the north side of CR 350 S and the south side of Cliburn Road, approximately ½ mile east of S. 18th Street, Lafayette, Wea 9 (NE) 22-4. CONTINUED FROM THE DECEMBER MEETING BY INCONCLUSIVE VOTE.

Jeff Kessler moved to approve the above-described request. Steve Schreckengast seconded the motion.

Mark Hermodson read the meeting procedures.

Sallie Fahey presented slides of the zoning map, and 2 aerial photos.

Margy Deverall read the staff report with recommendation of denial.

Daniel Teder, PO Box 280, Lafayette, IN, stated that the petitioner was present. He recapped the results of the last vote the Plan Commission took on this case. He pointed out that in October, the tract to the west of this property was successfully rezoned to GB. He presented a handout to the Commission. He said that this portion of CR 350 was unique and a commercial area. He stated that it is different from 18th going west to Concord because that is residential. He explained that going past Concord Road was industrial. He reviewed the photo in the handout and pointed out all of the business in the area. He stated that there were no objections from any of the other business in the area. He said that there are no single-family homes that border this site and there would be no impact on the value or quality of life. He stated that this petition would increase the value of neighboring properties. He presented additional handouts that included comparisons of Teal Road and CR 350. He stressed that this was not similar to Teal Road. He stated that this was not a neighborhood business area.

The Commission voted by ballot 11 yes – 1 no to recommend approval of **Z-2155—O'MALLEY-WHITE DEVELOPMENT, INC. (R3 TO GB)** to the Lafayette City Council.

Yes votes

Gary Schroeder
John Knochel
Michael Smith
Steve Schreckengast
KD Benson
David Williams
Jeff Kessler
Kevin Klinker
Dr. Carl Griffin
Vicky Pearl
Robert Bowman

No votes

Mark Hermodson

2. **Z-2156—BEACHWOOD, LLC BY JOHN B. SCHEUMANN (Crosser Commons PD)(R1 AND I3 TO PDRS):** Petitioner is requesting rezoning of approximately 22 acres for an 82 lot, single-family detached residential development located north of Elston Road between Powderhouse Lane and the Penn Central Rail Line in Lafayette, Fairfield 31 (E1/2) 23-4.

Jeff Kessler moved to approve the above-described request. Steve Schreckengast seconded the motion.

Sallie Fahey presented slides, zoning map, 2 aerial photos and site plan. She informed the Commission that the staff is withdrawing the 4th condition because the topography does not allow for it.

Margy Deverall read the staff report with recommendation of approval contingent on the following:

1. All sheets (other than preliminary plat) that make up the approved Preliminary Plan;
2. A final plat per UZO Appendix B-3-2 as applicable;
3. A "No vehicular Access" statement platted along the rear of lots 45, 46 & 47;
4. ~~A pedestrian ingress/egress easement connecting the development to Outlot A and the Park's proposed trailhead, moved from between lots 42 & 43 to either a line between lots 46 & 47 or along the rear of lots 47, 48 & 49~~

Restrictive Covenants – The following items shall be part of the planned development's covenants made enforceable by the Area Plan Commission and irrevocable by the lot owners:

5. The restriction prohibiting conversion of garage space into living space, shall also state that it is enforceable by the Administrative Officer;
6. The 40% maximum allowable percent of lot coverage and 30% required vegetative cover, shall also state that it is enforceable by the Administrative Officer;

Additional Conditions:

7. Street name approval;
8. Corrections to pg. 2 of Preliminary Plans titled "Zoning Information"
 - a. Properly locate R3 zone on lots 34 & 35 (currently shown on lots 35 & 36)
 - b. Spelling of Breakenridge (currently shown Brinkman Ridge)

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN, stated that the petitioners are present. He mentioned that PDs work better when there are unusual circumstances and this is unusual because of the combination of residential, industrial, railroad track and the terrain. He said that because of the growth on this side of town, industrial is not likely to expand. He stated that in this development, half of the houses will have 2 car garages and half will have 1-car garages with driveway space for parking. He explained that this would allow the street standards to be met and to have a staggered look. He stated that the petitioner has been working with the park department in order to comply with the linear park system. He said that there would be buffers, street trees, plantings and green space. He stated that all of the technical matters such as lot coverage, vegetative coverage, distance between houses and setbacks have all been discussed with the appropriate agencies. He concurred with the conditions and asked for approval.

Ann Miller, 2144 Powderhouse Lane, Lafayette, IN, stated that her husband has lived at this address for 30 years and frequently walks in this land. She asked when this property changed from agriculture to residential and industrial. She pointed out that many of the residents have lived there for over 40 years and there were never signs posted to change the zoning. She said that over the last 5 years they have dumped a lot of dirt on this land and raised the level anywhere from 5 – 40 feet. She said that it was her understanding that for every 5 feet of fill dirt, the land has to settle for 5 years and therefore is not yet stable enough to build on. She presented photos showing erosion of up to 4 feet deep. She stated that there is trash buried on this site and sticking up from the ground including tires and pieces of concrete. She said that there is a sand bed that continues to move because there was a trench dug 20 feet from the edge of Powderhouse Lane. She stated that an 8-foot storm drain was built underneath the railroad, which caused the sand to flow into the ditch, filled the storm drain, and then a beaver built a dam and submerged it. She said that there are a lot of things buried on this land including washing machines, dryers, freezers, paint cans and swing sets. She stated that when the buildings were torn down some it was hauled away and some of it was buried. She said that huge trees were cleared and the stumps buried. She pointed out that everything that is buried would cause cracks in anything that is built on it. She said that the area is very active with termites, which completely ate a 3-foot stump in one year. She

informed the Commission that approximately 4 years ago men came in with a tanker truck wearing suits, gloves and hoods and sprayed this land. She stated that there is no record of what they sprayed but one of the neighbors found a bag that held the chemicals, which stated that all neighbors should be notified because this chemical would kill all small plants and animals for 10 years. She reiterated that this land was sprayed only 4 years ago. She pointed out that between 5 – 15 foreclosure notices are served per day in Tippecanoe County and those owners do not pay their taxes. She mentioned that Indiana has the highest number of bankruptcies in the nation. She stated that there are 716 houses on the market in Lafayette and over half of them are vacant. She said that it was time to slow down development.

Alan Miller 2144 Powderhouse Lane, Lafayette, IN, stated that one of his concerns was the standing water that this area has. He stressed that when it rains this whole area floods and attracts frogs, ducks and geese. He said that if all this development goes in he would not be able to see deer and other wildlife anymore. He stated that this is a quite peaceful neighborhood and 82 homes would disrupt that. He reiterated that he has witnessed many things buried on this site.

Dave Ayala stated his company, TBird Designs, currently has a contract with the City of Lafayette to improve all drainage not only on this site but the surrounding 40 acres. He explained that the current ditch was a temporary measure put in by the City of Lafayette. He stated that his firm would make sure that all the compaction tests are done with a 95% proctor on all building pads and streets. He said that he had no knowledge and could not comment on the issues of buried trash or the tanker truck. He reiterated that his firm would be correcting all of the drainage issues. He explained that the people on Walker Lane were not notified because they were not adjacent owners, but there were 3 signs posted in different spots on the site.

KD Benson questioned the location of the single-car garages on the site plan.

Dave Ayala explained that they did not show up on this copy.

Joseph T. Bumbleburg explained that the site plan included in the packet was the landscape plan, which is why the houses did not show.

Dave Ayala stated that all of the single-car garage homes were scattered sporadically throughout the development and most were on the lots that had a 25' setback.

KD Benson stated that this was a good infill project and a good example of smart growth.

Dr. Carl Griffin recognized Alan Miller.

Alan Miller reiterated the large size of the sand bed and that it is very unstable.

The Commission voted by ballot 12 yes – 0 no to recommend approval of **Z-2156—BEACHWOOD, LLC BY JOHN B. SCHEUMANN (Crosier Commons PD)(R1 AND I3 TO PDRS)** with conditions to the Lafayette City Council.

3. **Z-2157—MICHAEL E. & PATRICIA L. MOLTER (A TO RE):**

Petitioners are requesting rezoning of 21.892 acres for a proposed nine lot Rural Estate Development located on the west side of CR 450 E, ½ mile south of CR 700 S, Wea 36 (SW) 22-4.

Jeff Kessler moved to approve the above-described request. Steve Schreckengast seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and sketch plan.

Margy Deverall read the staff report with recommendation of approval.

Joseph T. Bumbleburg stated that the petitioner was present. He said that this development had a mix of sizes on the 9 lots and was serviced by the private road. He stated that the technical support people such

as the engineers and the staff have been working together. He pointed out that this petition meets every standard of the RE subdivision. He concurred with the staff report and asked for approval.

The Commission voted by ballot 12 yes – 0 no to recommend approval of **Z-2157—MICHAEL E. & PATRICIA L. MOLTER (A TO RE)** to the Tippecanoe County Commissioners.

4. **Z-2158—JOHN E. SMITH ENTERPRISES, INC. (R1B TO NB):**

Petitioner is requesting rezoning of 1.623 acres located on the east side of S. 9th Street, north of the new Twyckenham/Brady extension, Lafayette, Wea 4 (NW) 22-4.

Jeff Kessler moved to approve the above-described request. Steve Schreckengast seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos and site plan.

Margy Deverall read the staff report with recommendation of approval.

Max Layden 712 Bank One Building, Lafayette, IN, stated that he represented the petitioner. He concurred with the staff report. He informed the Commission that the City of Lafayette took part of the frontage of 9th Street in order to install a sewer force main. He stated that the northeast side of this area is a strip of land 250 feet wide that is owned by the City of Lafayette that will be part of the trail system. He said that the area to the south is an unplatted area that is owned by Cory homes and was cut in half by the road extension. He mentioned that the area immediately to the west has had GB zoning for the last 10-15 years. He pointed out that this petition was for NB zoning which is more restrictive than GB. He stated that the intent of this development is to cater to small office or retail use. He mentioned the significant residential growth on the south side of town. He informed the Commission that the City of Lafayette has already decreed that their entrance will match up to the entrance to Twyckenham Village Center.

Randy Brist, 1016 Brick N Wood Drive, Lafayette, IN, stated that he has lived at this address for 13 years and the area in this petition should remain residential. He said that this is a neighborhood area and should remain so because of the proximity of Armstrong Park and the hiking trail. He explained that creating a corridor of business would cause children and family to have to deal with business traffic to reach the park. He pointed out that there should not be any more business on the east side of 9th Street, but that there was still room on the west side for more business. He mentioned that there were new businesses at South 18th Street and CR 350 and at Beck Lane and Old 231 making additional business available to this area. He said that he is worried how a rezone to NB would affect his property value. He said that this would open a door to rezone the adjacent land to business and bring it right into his backyard. He asked for denial.

Kim Campbell, 1311 Southport Drive, Lafayette, IN, stated that she opposed of this petition and asked for denial. She read the following letter of opposition into the record:

Steven P. Meyer, 1310 Southport Drive, Lafayette, IN.

She mentioned that in the summer there are hundreds of people who walk through this area to Armstrong Park and additional business would make the traffic hazardous to cross.

Charles Vaughn, 909 Bank One Building, Lafayette, IN, presented a display board showing the area in question. He stated that the plan that was drawn was improper for 1.5 acres. He stated that children should not be exposed to adult films. He pointed out that the ordinance allows an NB zone to carry adult movies, so long as it is under 50% of the building space. He expressed his frustration at this allowance and stressed that any percent of adult films was unacceptable. He stated that the petitioner already owns an establishment that carries this type of material and he will continue to carry it in all of his businesses. He said that he was upset because he has put a lot of time and money into Twyckenham Village. He informed the Commission that the petitioner has been trying to buy one of his own outlots with extremely high offers for the last 10 years so that they could put up a video store and he has refused to sell. He stated that he would never sell that land. He said that if this rezone were successful, the Commission would be responsible for putting adult movies in an area that has worked hard to be a nice neighborhood.

President Mark Hermodson informed Mr. Vaughn that he had half of one minute left to speak.

Charles Vaughn asked if he could have the same amount of time that staff had.

President Mark Hermodson reiterated that he had half a minute left to speak.

Charles Vaughn stated that he worked hard on this presentation and spent time and money on engineers and was frustrated that he only had half of one minute left to speak.

President Mark Hermodson reiterated that everyone was told at the beginning of the meeting that they would have 5 minutes to speak. He asked him to proceed with the conclusion of his presentation.

Charles Vaughn asked the audience if someone would yield their 5 minutes to him so he could finish his presentation.

Someone in the audience stated that they would be happy to yield their 5 minutes.

Charles Vaughn pointed out that there was one entrance to this property, which lined up with the entrance to Twyckenham Village. He reviewed the accesses and traffic flow surrounding this property. He reiterated that he was upset that an adult video store would be allowed here. He continued to review the entrances, accesses and traffic flow. He informed the Commission that he reviewed these traffic concerns with an engineer for over two hours and the engineer agreed that this property was not suitable for business. He said that this proposal should not be allowed and the property should remain residential so there would not be such a traffic jam. He pointed out that development across the street had sidewalks and parking islands with grass and there was not room in this proposal for these amenities. He informed the Commission that for the past 10 years he has asked the petitioner to cut the grass and he never did. He pointed out that this would be the same kind of neglect that the new development would receive. He asked the Commission to do something nice for the residents of this area and stated that he has personally done everything possible to make this a nice area to live in. He pointed out that everything he has developed has been over and above all minimum requirements. He asked that NB not be put in this area until the ordinance is amended prohibiting all adult material. He apologized for asking for additional time and explained that he worked really hard on this presentation and just wanted to complete it.

Kevin O'Kane, 1203 Brick N Wood Drive, Lafayette, IN, stated that when he bought his house 13 years ago he asked about the neighborhood and was presented plans that showed all residential homes. He said that he understands that things change, but now he has a bridge in his backyard and a proposal for a mini mall. He asked that the Commission keep the residential feel of the area in conjunction with the school and park. He mentioned that Charles Vaughn's comments on adult movies have many neighbors concerned.

Jim Sandy, 1017 Brick N Wood Drive, Lafayette, IN, he asked if the staff had addressed the issues of whether it was properly zoned.

Sallie Fahey stated that specifics as to where the driveway would be, have not been investigated because there is not a site plan yet. She explained that the property is entitled to access onto 9th Street because that is the only place that it can be.

Steve Schreckengast asked who owned the rest of the property around this site.

Sallie Fahey stated it was owned by Cory Homes and had been divided when the road was built.

Jim Sandy asked if it was true that adult materials could be sold at this facility.

Mark Hermodson stated that an adult bookstore would not be allowed.

Jim Sandy asked if 50% of his business could be adult material.

Sallie Fahey stated that it was considered an adult store if the preponderance of the stock in trade or the dollar volume in trade are distinguished or characterized by their emphasis on matter depicting,

describing or relating to specified sexual activities or anatomical areas. She said that it is possible for any book or video store to have some x-rated stock in trade and not be an adult bookstore.

Mark Hermodson stated that this was not limited to just the NB zone. He explained that the GB zone allowed even more than the NB zone.

Jim Sandy asked the Commission to review all the facts before making this decision. He said that this would affect the lives of all the residents of Brick N Wood. He stated that the residents of Brick N Wood were all family, church-going people. He said that even a store that was 50% adult material was unacceptable.

Diane O'Kane, 1203 Brick N Wood Drive, Lafayette, IN, reiterated that the sidewalks on both sides of 9th Street were heavily traveled for the school and park. She said that this would cause traffic and safety concerns.

Max Layden stated that nobody likes adult bookstores. He said that the petitioner does not own an adult bookstore as previously suggested. He stated that the petitioner had not had any affiliation with the Lafayette Station shopping center since 1999. He pointed out that the GB zone across the street would permit an adult store and an adult theatre and this petition would not. He mentioned that Brick N Wood was a very nice subdivision. He pointed out the distance between Brick N Wood and this proposal. He stated that there was no intent to harm the neighborhood. He said that the whole purpose of NB was to provide businesses that would benefit the neighborhood.

Kevin Klinker asked how much train traffic currently goes through this area.

Thomas Adams, 3213 Brick N Wood, Lafayette, IN, stated that there was a lot of train traffic in this area and occasionally they even stop and block traffic. He questioned the ability of emergency vehicles getting through.

Kevin Klinker asked if there was any research comparing the traffic a subdivision creates versus small business.

Sallie Fahey stated that single-family homes generate on average 10 trips a day, per home. She said that business traffic depends on the use, so she could not give a comparison number. She pointed out that emergency vehicle access was the primary motivation behind building the bridge.

KD Benson questioned where the pedestrian traffic crosses Twyckenham Blvd.

Kim Campbell stated that the pedestrians go to the corner sidewalk and cross.

Kevin Klinker asked if the property owned by Cory Homes would be closed off.

Sallie Fahey pointed out where the entrance to the Cory Home property would be. She explained that was a decision to be made by the City Engineer.

Charles Vaughn stated that he spoke to the engineer and while there were still some viable options, there would only be one entrance. He pointed out the cement barrier in the road which forces traffic to turn right.

Max Layden stated that the access issue was addressed by the City of Lafayette during the condemnation.

KD Benson stated that Twyckenham seems to be the dividing point. She stressed that the Commission's job is to decide land use.

Charles Vaughn addressed KD Benson.

Mark Hermodson informed Charles Vaughn that he was out of order.

Someone from the audience offered their allotted 5 minutes to Charles Vaughn.

Mark Hermodson stated that the time for public comment was behind and now it was time for the Commissioners only to ask questions.

KD Benson pointed out that the Commission's vote was a recommendation.

Mark Hermodson explained that regardless of this vote, the City Council of Lafayette would have the final decision and can overturn the Area Plan Commission.

The Commission voted by ballot 6 yes – 6 no to recommend approval of **Z-2158—JOHN E. SMITH ENTERPRISES, INC. (R1B TO NB)** to the Lafayette City Council.

Yes votes

KD Benson
Kevin Klinker
Steve Schreckengast
Jeff Kessler
Gary Schroeder
John Knochel

No votes

Robert Bowman
Vicki Pearl
Michael Smith
Dr. Carl Griffin
Mark Hermodson
David Williams

B. SUBDIVISIONS

1. S-3423—AVALON BLUFFS SUBDIVISION (MAJOR-PRELIMINARY):

Petitioner is seeking primary approval for a 247-lot single-family subdivision (and 11 outlots) on 76.57 acres, located at the southeast corner of CR 450 S and Concord Road (CR 250 E), in Wea 15 (SE) 22-4. CONTINUED FROM THE DECEMBER MEETING.

Jeff Kessler moved to hear and vote on the above-described request. Steve Schreckengast seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos, 2 preliminary plats and 2 aerials showing the Confined Feeding Operation nearby.

Margy Deverall stated that the petitioner has requested permission to bond. She recapped the staff report with a recommendation of conditional primary approval contingent on the following conditions:

1. The streets labeled with letters A – N shall be replaced with street names approved by the Post Office, 911 and APC Staff, in the construction plans and on the final plat.

CONSTRUCTION PLANS – The following items shall be part of the Construction Plans application and approval:

2. The Lafayette City Engineer shall approve the sanitary sewer and water plans.
3. The Wea Township Fire Department shall approve the fire hydrants. Plans for the actual placement of the hydrants shall be approved by the City in cooperation with the Fire Department.
4. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall be approved by the Tippecanoe County Soil and Water Conservation District and meeting the requirements of the County Drainage Board as required by Tippecanoe County Ordinance #93-18-CM.
5. The County Drainage Board shall approve the drainage plans.
6. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

7. "No Vehicular Access" statements shall be platted along the Concord Road, CR 450 S, and CR 500 S right-of-way lines, as shown on the preliminary plat.
8. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
9. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
10. All required building setbacks shall be platted.

11. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

12. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

13. The purpose, ownership and maintenance of all outlots shall be specified.

Joseph T. Bumbleburg stated that the petitioner and developer were present. He presented pictures to the board. He mentioned that this is a growing area for residential use. He stated that this would have a park, numerous outlots for buffers and the drainage would be taken care of by the pond. He said that now that the CFO problem is solved, the subdivision is in complete compliance. He concurred with the conditions.

Raymond Gee, 5082 Glacier Way, Lafayette, IN, reminded the Commission that in July 2003, this Commission voted against this plan. He pointed out that the letter from the petitioner stated that the existing pond would not be severely diminished. He stated that he did not think his existing pond should be diminished at all. He mentioned that the water going into the pond should be filtered.

Mark Hermodson stated that his concerns should be brought up to the Drainage Board.

Russ Ribnek, 5024 Glacier Way, Lafayette, IN, stated that the creek that fills the pond runs through his land. He said that he was concerned that this preliminary plan did not protect his land or the pond. He requested a condition in the staff report protecting his land before it is passed.

Mark Hermodson reiterated that the Plan Commission did not have authority to do that and that concern would have to be taken to the Drainage Board.

KD Benson pointed out that there is a condition that they have the approval of the Drainage Board.

Mark Hermodson explained the procedures for voting on subdivisions.

The Commission voted by ballot 12 yes to 0 no to permit bonding.

The Commission voted by ballot 12 yes – 0 no for conditional primary approval of **S-3423—AVALON BLUFFS SUBDIVISION (MAJOR-PRELIMINARY)**.

VII. ADMINISTRATIVE MATTERS

None

VIII. APPROVAL OF THE JANUARY 2004 ABZA PUBLIC HEARING AGENDA

Jeff Kessler moved that that the following petitions be placed on the the January 28, 2004 Area Board of Zoning Appeals Public Agenda:

BZA-1652 – SIGNART, INC

BZA-1654 – DOUGLAS AND CYNTHIA GARWOOD

BZA-1655 – DANIEL TEDER

BZA-1656 – PARADIGM DEVELOPMENT, LLC

Steve Schreckengast seconded and the motion carried by voice vote.

Jeff Kessler moved that for the following petitions the sign ordinance be strictly adhered to:

BZA-1652 - SIGNART, INC

BZA-1656 – PARADIGM DEVELOPMENT, LLC

Steve Schreckengast seconded and the motion carried by voice vote.

IX. APPROVAL OF THE FEBRUARY EXECUTIVE COMMITTEE AGENDA

Jeff Kessler moved that the February 4, 2004 Executive Committee Agenda be approved as submitted.

Steve Schreckengast seconded and the motion carried by voice vote.

X. DETERMINATION OF VARIANCES

A. Area Board of Zoning Appeals

Jeff Kessler moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variance, prohibited from consideration by ordinance and statute.

BZA-1655 – DANIEL TEDER

BZA-1656 – PARADIGM DEVELOPMENT, LLC

Steve Schreckengast seconded and the motion carried by voice vote.

B. Lafayette Division of the Area Board of Zoning Appeal

Jeff Kessler moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variance, prohibited from consideration by ordinance and statute:

#2004-01—MICHAEL E. DAUGHERTY

#2004-02—TNT-ZUR, LLC

#2004-03—TED BREWER

Steve Schreckengast seconded and the motion carried by voice vote.

XI. REVIEW AND APPROVAL OF THE DECEMBER BUDGET REPORT

Jeff Kessler moved to approve the December budget report as submitted. Steve Schreckengast seconded and the motion carried by voice vote.

XII. DIRECTOR'S REPORT

Sallie Fahey recapped the director's report and highlighted; City Bus, Building Permits, HES Grant, Transportation Planning Reimbursement and New Fee Structure Income. She presented a handout of a building permit map recorded by census block that Brian Weber will be preparing every year. She stated that these maps would be available to compare year to year.

Jeff Kessler stated that he appreciated the APC leading the way for establishing new fee structures. He asked about the locations of where the grant money would be used.

KD Benson stated they were at 500 East and 900 North.

XIII. CITIZENS' COMMENTS AND GRIEVANCES

None

XIV. ADJOURNMENT

Jeff Kessler moved for adjournment. Steve Schreckengast seconded and the motion carried by voice vote.

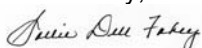
The meeting was adjourned at 9:45 P.M.

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director